

## Message Text

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ORIGIN EB-08

INFO OCT-01 EA-12 ISO-00 CAB-05 CIAE-00 COME-00  
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DRAFTED BY EB/OA/AN:TJROESCH:JG  
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EB/OA:MHSTYLES  
-----124402 242145Z /75  
O 242056Z JAN 78  
FM SECSTATE WASHDC  
TO AMEMBASSY TOKYO IMMEDIATE

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E.O. 11652: N/A

TAGS: EAIR, JA

SUBJECT: CIVAIR: CAB PART 213 ORDER REGARDING JAL

1. ON JANUARY 23, CAB ADOPTED ORDER REQUIRING JAL TO FILE  
SCHEDULES. ORDER ISSUED JANUARY 24; JAPANESE EMBASSY AND  
JAL, WASHINGTON HAVE BEEN NOTIFIED OF BOARD'S ACTION.  
TEXT OF PERTINENT SECTIONS OF ORDER FOLLOWS:

2. BEGIN TEXT: (PARA INDENT) AS A RESULT OF THE PRESI-  
DENT'S APPROVAL OF THE TRANSPACIFIC RENEWAL CASE, FLYING  
TIGER WAS GRANTED NEW AUTHORITY TO SERVE INDONESIA,  
MALAYSIA, AND SINGAPORE. PURSUANT TO THE 1959 AGREED  
MINUTE, THE U.S. EMBASSY IN TOKYO FILED SCHEDULES  
WITH THE JAPANESE CIVIL AERONAUTICS BUREAU (JCAB) PROPOSING  
THREE WEEKLY UNITED STATES-JAPAN-HONG KONG-SINGAPORE ALL-  
CARGO FLIGHTS. ALTHOUGH THE SERVICE WAS TO BE INAUGURATED  
ON JANUARY 7, AS AN EXTENSION OF FLYING TIGER'S EXISTING  
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SERVICES TO HONG KONG, THE JCAB HAS NOT APPROVED FLYING  
TIGER'S SCHEDULES FOR THE PROPOSED SERVICE. JAPAN'S  
FAILURE TO AUTHORIZE THE OPERATION WAS FORMALLY PROTESTED  
BY THE UNITED STATES IN A DIPLOMATIC NOTE DATED JANUARY 10,  
1978.

ON JANUARY 14, JAPAN REPLIED TO THE U.S. NOTE BY DECLINING

TO APPROVE THE FLYING TIGER SCHEDULES. THE JAPANESE, HOWEVER, INDICATED A WILLINGNESS TO PLACE THIS ISSUE ON THE AGENDA FOR SUBSEQUENT INTERGOVERNMENTAL DISCUSSIONS. UNTIL FLYING TIGER'S SCHEDULES ARE APPROVED, THE CARRIER IS BEING DEPRIVED OF ITS RIGHT TO TRANSPORT CARGO BETWEEN JAPAN AND SINGAPORE, IN CONTRAVENTION OF THE AIR TRANSPORT SERVICES AGREEMENT. FLYING TIGER HAS FILED A PETITION WITH THE BOARD REQUESTING THAT WE TAKE ACTION UNDER PART 213 OF THE BOARD'S ECONOMIC REGULATIONS, 14 C.F.R. 213, IN RESPONSE TO THE JAPANESE REFUSAL TO APPROVE ITS SCHEDULES.

(PARA INDENT) UPON CONSIDERATION OF THE ABOVE, THE BOARD FINDS THAT THE JAPANESE GOVERNMENT'S REFUSAL OVER THE OBJECTIONS OF THE UNITED STATES GOVERNMENT TO APPROVE FLYING TIGER'S SCHEDULES FOR SERVICES BETWEEN JAPAN AND SINGAPORE IMPAIRS, LIMITS, AND DENIES OPERATING RIGHTS PROVIDED FOR IN THE AIR TRANSPORT SERVICES AGREEMENT TO FLYING TIGER, THE AIRLINE DESIGNATED AND AUTHORIZED BY THE UNITED STATES TO PERFORM THOSE SERVICES. PART 213 OF THE BOARD'S REGULATIONS WAS PROMULGATED SPECIFICALLY TO ENABLE THE BOARD TO TAKE EFFECTIVE ACTION TO INSURE THAT U.S. CARRIERS WILL NOT BE DENIED OPERATING RIGHTS PROVIDED FOR UNDER AN AIR TRANSPORT SERVICES AGREEMENT. IN THESE CIRCUMSTANCES, THE BOARD FINDS, UNDER PART 213, THAT THE PUBLIC INTEREST REQUIRES JAPAN AIR LINES (JAL) TO UNCLASSIFIED

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FILE ALL OF ITS EXISTING AND PROPOSED SCHEDULES OF SERVICE BETWEEN JAPAN AND THE UNITED STATES (INCLUDING INTER-MEDIATE AND BEYOND POINTS). UNLESS THE JAPANESE GOVERNMENT APPROVES FLYING TIGER'S SCHEDULES, THE BOARD WILL THEREAFTER CONSIDER WHETHER THE OPERATION OF JAL'S SCHEDULES, OR ANY PART OF THEM, MAY BE CONTRARY TO APPLICABLE LAW OR ADVERSE TO THE PUBLIC INTEREST, AND, SUBJECT TO STAY OR DISAPPROVAL OF THE PRESIDENT, SHOULD BE DISAPPROVED.

IT IS THEREFORE ORDERED THAT:

(PARA INDENT) 1. JAPAN AIR LINES, INC., FILE WITH THE CIVIL AERONAUTICS BOARD (ATTENTION: DIRECTOR, BUREAU OF INTERNATIONAL AVIATION) WITHIN SEVEN DAYS AFTER SERVICE OF THIS ORDER AN ORIGINAL AND THREE COPIES OF ANY AND ALL EXISTING SCHEDULES OF SERVICE INCLUDING EXTRA SECTIONS BETWEEN JAPAN THE UNITED STATES, INCLUDING SCHEDULES OF SERVICE VIA OR TO INTERMEDIATE AND BEYOND POINTS, WHICH SHALL INCLUDE:

(INDENT) (A) THE TYPE OF EQUIPMENT USED (INCLUDING THE

NUMBERS OF SEATS, BY CLASS OF SERVICE, ON AIRCRAFT NORMALLY ASSIGNED, BY FLIGHT, AND THE CAPACITY OF THE ALL-CARGO EQUIPMENT);

(INDENT) (B) THE TIMES OF ARRIVAL AND DEPARTURE AT EACH POINT; AND

(INDENT) (C) THE FREQUENCY AND DAY(S) OF OPERATION OF EACH FLIGHT.

(PARA INDENT) 2. JAPAN AIR LINES, INC., SHALL FILE WITH THE CIVIL AERONAUTICS BOARD (ATTENTION: DIRECTOR, BUREAU OF INTERNATIONAL AVIATION) AN ORIGINAL AND THREE COPIES OF ANY AND ALL PROPOSED SCHEDULES OF SERVICE BETWEEN UNCLASSIFIED

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JAPAN AND THE UNITED STATES, INCLUDING THE INFORMATION NOTED IN ORDERING PARAGRAPH 1 ABOVE, THE PROPOSED EFFECTIVE DATE OF SUCH SCHEDULES, AND THE PROPOSED TERMINATION DATE OF SUCH SCHEDULES (IF DETERMINED), AT LEAST 30 DAYS PRIOR TO THE INAUGURATION OF SUCH SERVICE. END TEXT.

3. EMBASSY AIR POUCHED COPY OF ORDER.

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## Message Attributes

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